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The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 13

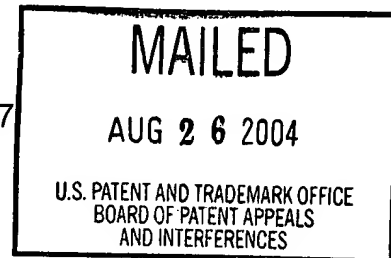
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KATHRYN A. ENGHOLM

Appeal No. 2004-0585
Application No. 09/633,687

ON BRIEF



Before RUGGIERO, DIXON, and BLANKENSHIP, **Administrative Patent Judges**.
DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-7, 10, and 11. Claim 9 has been canceled, and claims 8, 12 and 13 have been indicated by the examiner as allowable over the prior art of record.

We **AFFRIM**.

Appellant's invention relates to a status ribbon for display for multiple channels/codes. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A display of signal characteristics for multiple channels/codes within a region of interest comprising a status ribbon having a plurality of stripes, each stripe representing at least one channel/code within the region of interest and having a trait representative of a value for the at least one channel/code.

The prior art of record relied upon by the examiner in rejecting the appealed claims is as follows:

Yokoyama et al. (Yokoyama)	5,291,285	Mar. 1, 1994
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Claims 1-3, 6-7, and 10-11 stand rejected under 35 U.S.C. § 102 as being anticipated by Yokoyama.¹ Claims 4 and 5 stand rejected under 35 U.S.C. § 103 as being unpatentable over Yokoyama .

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellant regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 11, mailed Sep. 11, 2003) for the examiner's reasoning in support of the rejections, and to appellant's brief (Paper No. 10, filed Jun. 27, 2003) for appellant's arguments thereagainst.

¹Additionally, we note that examiner has not made any rejection under the printed matter doctrine or consideration of the claims under 35 U.S.C. § 101. Upon return of the file to the examiner, the examiner should consider these bases for rejections since no structure or article are present in at least independent claim 1.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellant's specification and claims, to the applied prior art reference, and to the respective positions articulated by appellant and the examiner. As a consequence of our review, we make the determinations which follow.

At the outset, we note that appellant has elected to group all the claims as standing or falling together at page 2 of the brief and has not provided any separate arguments for the dependent claims or to the rejection under 35 U.S.C. § 103. Therefore, we elect independent claim 1 and will address appellant's arguments thereto.

35 U.S.C. § 102

In determining novelty, the first inquiry must be into exactly what the claims define. In re Wilder, 429 F.2d 447, 450, 166 USPQ 545, 548 (CCPA 1970). Similarly, a section 103 analysis begins with a key legal question -- what is the invention claimed? **Panduit Corp. v. Dennison Mfg. Co.**, 810 F.2d 1561, 1567, 1 USPQ2d 1593, 1597 (Fed. Cir. 1987).

The terms used in the claims bear a "heavy presumption" that they mean what they say and have the ordinary meaning that would be attributed to those words by persons skilled in the relevant art. **Texas Digital Sys., Inc. v. Telegenix Inc.**, 308 F.3d

1193, 1202. Dictionaries, encyclopedias, and treatises are particularly useful resources in determining the ordinary and customary meanings of claim terms. *Id.* at 1202, 64 USPQ2d at 1818. Indeed, these materials may be the most meaningful sources of information in better understanding both the technology and the terminology used by those skilled in the art to describe the technology. *Id.* at 1203, 64 USPQ2d at 1818. In the instant case, independent claim 1 contains the term "status ribbon."

There is no evidence in the record that the word "status ribbon," in the instant written description and claims, had any special meaning to the artisan at the time of disclosure, nor do we find any particular definition of the word in the instant specification. **See *In re Paulsen***, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) (repeating the principle that where an inventor chooses to be his own lexicographer and gives terms uncommon meanings, he must set out the uncommon definition in the patent disclosure). **See also *Beachcombers Int'l. Inc. v. WildeWood Creative Prods., Inc.***, 31 F.3d 1154, 1158, 31 USPQ2d 1653, 1656 (Fed. Cir. 1994) ("As we have repeatedly said, a patentee can be his own lexicographer provided the patentee's definition, to the extent it differs from the conventional definition, is clearly set forth in the specification."); ***Johnson Worldwide Assocs. Inc. v. Zebco Corp.***, 175 F.3d 985, 989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999) (there is a "heavy presumption" that claim language has its ordinary meaning).

Appellant argues at page 3 of the brief that the present specification provides a definition of "status ribbon" at page 3, line 10 through page 4, line 9. From our review of the cited text and corresponding Figure 1, we find that this is merely a description of the status ribbon with various alternative embodiments and variations to convey information to a user, and we do not find a specific definition of the term "status ribbon."

The examiner maintains that the stripes/bars of Yokoyama are a status ribbon where the bars have a trait that conveys information for at least on channel or code. (Answer at pages 3-4.) We agree with the examiner. Appellant argues that Yokoyama does not teach a ribbon with a stripe having a trait which is further defined in claims 6 and 7. (Brief at page 3.) We find no limitation in independent claim 1 as to color or brightness. Therefore, this argument is not persuasive.

Appellant argues that in contradistinction, the bars of Yokoyama correspond to each video channel so they do not represent more than a single channel. (Brief at page 3.) Again, we do not find a limitation in independent claim 1 that the bar must represent more than a single channel. Therefore, this argument is not persuasive. Appellant argues that no person, even one "with no skill in the art, would reasonably give such a broad interpretation as to equate the a bar graph display region with a ribbon or the individual bars with stripes even using ordinary meanings." (Brief at page 3.) We disagree with appellant and find that appellant has identified no special

definition in the specification and provided no ordinary definition with which to support appellant's argument. Therefore, this argument is not persuasive.

We find that the length of a bar in a bar graph would have a trait, such that length would convey information to a user. We find no language which limits what the trait would be or defines the parameters of the status ribbon, such as, all stripes being the same dimension or abutting each other.

Since we find that the examiner has established a *prima facie* case of anticipation of independent claim 1 which has not been adequately rebutted by appellant, we will sustain the rejection of independent claim 1 and the claims appellant has elected to group therewith.

35 U.S.C. § 103

Appellant has elected to group claims 4 and 5 with independent claim 1 and has not set forth any separate argument for patentability under 35 U.S.C. § 103. Therefore, we *pro forma* sustain the rejection of dependent claims 4 and 5.

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CONCLUSION

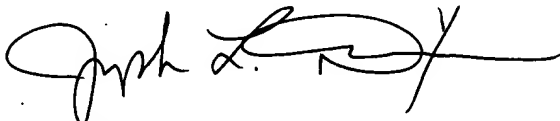
To summarize, the decision of the examiner to reject claims 1-3; 6; 7; 10, and 11 under 35 U.S.C. § 102 is affirmed and the decision of the examiner to reject claims 4 and 5 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

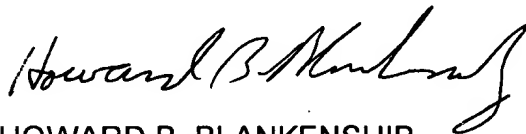
AFFIRMED



JOSEPH F. RUGGIERO
Administrative Patent Judge



JOSEPH L. DIXON
Administrative Patent Judge



HOWARD B. BLANKENSHIP
Administrative Patent Judge

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